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Attorneys for DEFENDANTS

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

CHUBB CUSTOM INSURANCE COMPANY,  
a Delaware Corporation,

Plaintiffs,

v.

THE ALLEN EARLEY 1998 FAMILY  
TRUST, a California Trust; ALLEN EARLEY  
PLANTERS PROJECT, LP, a California  
Limited Partnership, and Does 1-10

Defendants.

CASE NO. 2008 CV 1074 BTM CAB

**NOTICE OF MOTION TO DISMISS  
BASED ON PRIOR PENDING STATE  
COURT ACTION**

**NO ORAL ARGUMENT UNLESS  
REQUESTED BY COURT**

**Date: September 5, 2008**

**Time: 11:00 a.m.**

**Place: Courtroom 15**

**Hon. Barry T. Moskowitz**

TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT ON September 5, 2008, or as soon thereafter as the matter may be heard in the above entitled court, located at 940 Front Street, San Diego, CA 92101, defendants The Allen Earley 1998 Family Trust and the Allen Earley Planters Project, LP, will move this court to dismiss the action based on pursuant to prior pending state court action, as well as doctrines of comity, the anti-injunction statute, and abstention.

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1 The motion will be based upon this Notice of Motion, the memorandum of points and  
2 authorities filed herewith, the attached Request for Taking Judicial notice under FRE section 201, and  
3 the pleadings and papers filed herein.

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5 Dated: July 11, 2008

**WARD & HAGEN, LLP**

By: 

Peter C. Ward

Ralph W. Peters, Esq.

*Attorneys for Defendants*

THE ALLEN EARLEY 1998 FAMILY  
TRUST and ALLEN EARLEY PLANTERS  
PROJECT L.P.